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§4–126.

(a) In this section, “alternative financing methods” includes one or more of the following methods:

(1) Sale–leaseback arrangements, in which a county board agrees to transfer title to a property, including improvements, to a private entity that simultaneously agrees to lease the property back to the county board and, on a specified date, transfer title back to the county board;

(2) Lease–leaseback arrangements, in which a county board leases a property to a private entity that improves the property and leases the property, with the improvements, back to the county board;

(3) Public–private partnership agreements, in which a county board contracts with a county revenue authority or a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school, and may include provisions for cooperative use of the school or an adjacent property and generation of revenue to offset the cost of construction or use of the school;

(4) Performance–based contracting, in which a county board enters into an energy performance contract to obtain funding for a project with guaranteed energy savings over a specified time period;

(5) Preference–based arrangements, by which a local governing body gives preference first to business entities located in the county and then to business entities located in other counties in the State for any construction that is not subject to prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article;

(6) Design–build arrangements, that permit a county board to contract with a design–build business entity for the combined design and construction of qualified education facilities, including financing mechanisms where the business entity assists the local governing body in obtaining project financing; and

(7) Design–construct–operate–maintain–finance arrangements that permit a county board to contract with a county revenue authority or a private entity for the design, construction, operation, and maintenance of a public school under terms agreed to by the parties.

(b) (1) Except when prohibited by local law, in order to finance or to speed delivery of, transfer risks of, or otherwise enhance the delivery of public school construction, a county board, with the approval of the county governing body in accordance with subsection (d) of this section, may:

(i) Use alternative financing methods;

(ii) Engage in competitive negotiation, rather than competitive bidding, in limited circumstances, including construction management at–risk arrangements and other alternative project delivery arrangements, as provided in regulations adopted by the Interagency Commission on School Construction;

(iii) Accept unsolicited proposals for the development of public schools in limited circumstances, as provided in regulations adopted by the Interagency Commission on School Construction;

(iv) Solicit proposals for the development of public schools;

(v) Lease property from a county revenue authority or a private entity for use as a public school facility; and

(vi) Use quality–based selection, in which selection is based on a combination of qualifications and cost factors, to select developers and builders, as provided in regulations adopted by the Interagency Commission on School Construction.

(2) The alternative financing methods described under paragraph (1)(i) of this subsection may include reserves sufficient to cover operation, facility renewal, maintenance, and energy costs as part of a contract.

(c) Use of alternative financing methods under this section may not be construed to prohibit the allocation of State funds for public school construction to a project under the Public School Construction Program.

(d) A county board may not use alternative financing methods under this section without the approval of the county governing body.

(e) (1) (i) Except as provided in paragraphs (2) and (3) of this subsection, § 2–303(f) and Title 5, Subtitle 3 of this article and the regulations that govern the Public School Construction Program do not apply to projects that use alternative financing methods under this section.

(ii) Nothing in this section may be construed to authorize or require State approval before an alternative financing method may be used by a local school system.

(2) If a project that receives State funding uses alternative financing methods under this section, the project shall be submitted to the Interagency Commission on School Construction for review.

(3) (i) Projects that use alternative financing methods under this section and receive State funding shall comply with the following requirements:

1. Except as provided in subparagraph (ii) of this paragraph, the State and local cost–share established for each county in regulations;

2. Except as provided in subparagraph (ii) of this paragraph, the maximum State construction allocation for each project approved for State funding;

3. Except as provided in subparagraph (ii) of this paragraph, the approval of project funding by the Interagency Commission on School Construction;

4. Smart growth requirements;

5. Minority business enterprise requirements;

6. Prevailing wage requirements;

7. Environmental requirements; and

8. A requirement for a procurement process that includes public notice and results in the most advantageous proposal.

(ii) In Prince George's County, projects that use alternative financing methods under this section and receive State funding for a yearly availability payment:

1. Do not have to comply with the requirements under subparagraph (i)1 through 3 of this paragraph;

2. Shall comply with the requirements under subparagraph (i)4 through 8 of this paragraph; and

3. If the project receives State funding for a yearly availability payment from the Supplemental Public School Construction Financing Fund under § 10–658 of the Economic Development Article, the project shall comply with a four–party memorandum of understanding entered into and signed by the Prince George's County Board, Prince George's County, the Maryland Stadium Authority, and the Interagency Commission on School Construction that:

A. Specifies the roles, rights, terms, and responsibilities of each party with respect to school projects undertaken with a private or public entity using alternative financing methods, including any amounts the parties are required to deposit into the Prince George's County Public–Private Partnership Fund established under § 4–126.2 of this subtitle;

B. Specifies that § 2–203(f) and Title 5, Subtitle 3 of this article and regulations governing the Public School Construction Program are not applicable to projects using alternative financing methods;

C. Requires the Prince George's County Board to submit projects to the Interagency Commission on School Construction for review before commencement of the project;

D. Specifies the time frames in which the Interagency Commission on School Construction shall complete its review of projects;

E. Requires the Prince George's County Board to submit annual reports to Prince George's County, the Maryland Stadium Authority, and the Interagency Commission on School Construction during the term of the alternative financing method contract with the public or private entity; and

F. Specifies the terms under which each party will comply with the provisions of §§ 4–126.1 and 4–126.2 of this subtitle.

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